

AMENDED IN SENATE MARCH 26, 2004

AMENDED IN SENATE MARCH 22, 2004

**SENATE BILL**

**No. 1369**

**Introduced by Senator Kuehl**

February 18, 2004

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An act to amend Section 51182 of the Government Code, and to amend Section 4291 of the Public Resources Code, relating to fire protection.

LEGISLATIVE COUNSEL'S DIGEST

SB 1369, as amended, Kuehl. Fire protection.

(1) Existing law requires any person who owns, leases, controls, operates, or maintains any occupied dwelling or occupied structure in, upon, or adjoining any mountainous area, forest-covered land, brush-covered land, grass-covered land, or any land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by the local agency, as provided, to, among other things, maintain around and adjacent to the occupied dwelling or occupied structure additional fire protection or firebreaks made by removing all brush, flammable vegetation, or combustible growth that is located from 30 to 100 feet from the occupied dwelling or occupied structure or to the property line, whichever is nearer, as may be required by the local agency if the agency finds that, because of extra hazardous conditions, a firebreak of only 30 feet around the occupied dwelling or occupied structure is not sufficient to provide reasonable fire safety.

Existing law requires a person that owns, leases, controls, operates, or maintains a building or structure, in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands,

grass-covered lands, or any land that is covered with flammable material, to, among other things, maintain around and adjacent to the building or structure additional fire protection or a firebreak, by removing all brush, flammable vegetation, or combustible growth that is located from 30 to 100 feet from the building or structure or to the property line, whichever is nearer, as may be required by the Director of Forestry and Fire Protection, if he or she finds that, because of extra hazardous conditions, a firebreak of only 30 feet around the building or structure is not sufficient to provide reasonable fire safety.

This bill would revise both of those requirements to require those persons to remove all brush, flammable vegetation, or combustible growth that is located within 100 feet from the occupied dwelling or occupied structure, or building or structure, as applicable, or to the property line, or at a greater distance if required by state law, or local ordinance, rule, or regulation.

The bill would require an owner, prior to constructing a new dwelling or structure that will be occupied or reconstructing an occupied dwelling or occupied structure damaged by a fire in a very high fire hazard severity zone, or constructing a new building or structure or rebuilding a building or structure damaged by fire in one of those other specified areas, to certify to the property insurance carrier that insures the occupied dwelling or occupied structure, or building or structure, that the dwelling, building, or structure, as applicable, will be constructed in compliance with all state and local building codes, including specified standards covering fire prevention. Because the bill would expand the definition of a crime, the bill would impose a state-mandated local program.

**Existing**

(2) *Existing* law provides that a local agency having jurisdiction of property violating the above described conditions is required to notify the owner of the property to correct the conditions. If the owner fails to correct the conditions, the local agency is authorized to cause the corrections to be made, and the expenses incurred become a lien on the property when recorded, as specified, in the county recorder's office in the county in which the real property is located.

The bill would authorize the Director of Forestry and Fire Protection to authorize the removal of vegetation not consistent with these and related requirements. The bill would authorize a lien upon the building, structure, or grounds for the expense of the removal of that vegetation, as specified.



~~(2)~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 51182 of the Government Code is  
2 amended to read:

3 51182. (a) Any person who owns, leases, controls, operates,  
4 or maintains any occupied dwelling or occupied structure in, upon,  
5 or adjoining any mountainous area, forest-covered land,  
6 brush-covered land, grass-covered land, or any land that is covered  
7 with flammable material, which area or land is within a very high  
8 fire hazard severity zone designated by the local agency pursuant  
9 to Section 51179, shall at all times do all of the following:

10 (1) Maintain around and adjacent to the occupied dwelling or  
11 occupied structure a firebreak made by removing and clearing  
12 away, for a distance of not less than 30 feet on each side thereof or  
13 to the property line, whichever is nearer, all flammable vegetation  
14 or other combustible growth. This paragraph does not apply to  
15 single specimens of trees, ornamental shrubbery, or similar plants  
16 that are used as ground cover, if they do not form a means of  
17 rapidly transmitting fire from the native growth to any dwelling or  
18 structure.

19 (2) Maintain around and adjacent to the occupied dwelling or  
20 occupied structure additional fire protection or firebreaks made by  
21 removing all brush, flammable vegetation, or combustible growth  
22 that is located within 100 feet from the occupied dwelling or  
23 occupied structure or to the property line, or at a greater distance  
24 if required by state law, or local ordinance, rule, or regulation. This  
25 section does not prevent an insurance company that insures an  
26 occupied dwelling or occupied structure from requiring the owner  
27 of the dwelling or structure to maintain a firebreak of more than  
28 100 feet around the dwelling or structure if a hazardous condition



1 warrants such a firebreak of a greater distance. Grass and other  
2 vegetation located more than 30 feet from the dwelling or structure  
3 and less than 18 inches in height above the ground may be  
4 maintained where necessary to stabilize the soil and prevent  
5 erosion.

6 (3) Remove that portion of any trees that extends within 10 feet  
7 of the outlet of any chimney or stovepipe.

8 (4) Maintain any tree adjacent to or overhanging any building  
9 free of dead or dying wood.

10 (5) Maintain the roof of any structure free of leaves, needles,  
11 or other dead vegetative growth.

12 (6) Provide and maintain at all times a screen over the outlet of  
13 every chimney or stovepipe that is attached to any fireplace, stove,  
14 or other device that burns any solid or liquid fuel. The screen shall  
15 be constructed and installed in accordance with the California  
16 Building Standards Code.

17 (7) Prior to constructing a new dwelling or structure that will  
18 be occupied or rebuilding an occupied dwelling or occupied  
19 structure damaged by a fire in such zone, the owner shall certify  
20 to the property insurance carrier that insures the dwelling or  
21 structure that it will be constructed in compliance with all  
22 applicable state and local building standards, including those  
23 described in subdivision (b) of Section 51189.

24 (b) A person is not required under this section to maintain any  
25 clearing on any land if that person does not have the legal right to  
26 maintain the clearing, nor is any person required to enter upon or  
27 to damage property that is owned by any other person without the  
28 consent of the owner of the property.

29 SEC. 2. Section 4291 of the Public Resources Code is  
30 amended to read:

31 4291. A person that owns, leases, controls, operates, or  
32 maintains a building or structure in, upon, or adjoining any  
33 mountainous area, forest-covered lands, brush-covered lands,  
34 grass-covered lands, or any land that is covered with flammable  
35 material, shall at all times do all of the following:

36 (a) Maintain around and adjacent to the building or structure a  
37 firebreak made by removing and clearing away, for a distance of  
38 not less than 30 feet on each side of the building or structure or to  
39 the property line, whichever is nearer, all flammable vegetation or  
40 other combustible growth. This subdivision does not apply to

1 single specimens of trees, ornamental shrubbery, or similar plants  
2 that are used as ground cover, if they do not form a means of  
3 rapidly transmitting fire from the native growth to any building or  
4 structure.

5 (b) Maintain around and adjacent to the building or structure  
6 additional fire protection or firebreak made by removing all brush,  
7 flammable vegetation, or combustible growth that is located  
8 within 100 feet from the building or structure or to the property  
9 line or at a greater distance if required by state law, or local  
10 ordinance, rule, or regulation. This section does not prevent an  
11 insurance company that insures a building or structure from  
12 requiring the owner of the building or structure to maintain a  
13 firebreak of more than 100 feet around the building or structure if  
14 ~~a hazardous condition warrants a firebreak of a greater distance.~~  
15 Grass and other vegetation located more than 30 feet from the  
16 building or structure and less than 18 inches in height above the  
17 ground may be maintained where necessary to stabilize the soil and  
18 prevent erosion.

19 (c) Remove that portion of any tree that extends within 10 feet  
20 of the outlet of a chimney or stovepipe.

21 (d) Maintain any tree adjacent to or overhanging a building free  
22 of dead or dying wood.

23 (e) Maintain the roof of a structure free of leaves, needles, or  
24 other dead vegetative growth.

25 (f) Provide and maintain at all times a screen over the outlet of  
26 every chimney or stovepipe that is attached to a fireplace, stove,  
27 or other device that burns any solid or liquid fuel. The screen shall  
28 be constructed of nonflammable material with openings of not  
29 more than one-half inch in size.

30 (g) Prior to constructing a new building or structure or  
31 rebuilding a building or structure damaged by a fire in such an area,  
32 the owner shall certify to the property insurance carrier that insures  
33 the building or structure that it will be constructed in compliance  
34 with all applicable state and local building standards, including  
35 those described in subdivision (b) of Section 51189 of the  
36 Government Code.

37 (h) Except as provided in Section 18930 of the Health and  
38 Safety Code, the director may adopt regulations exempting  
39 structures with exteriors constructed entirely of nonflammable  
40 materials, or conditioned upon the contents and composition of

1 same, he or she may vary the requirements respecting the  
2 removing or clearing away of flammable vegetation or other  
3 combustible growth with respect to the area surrounding those  
4 structures.

5 No exemption or variance shall apply unless and until the  
6 occupant thereof, or if there is not an occupant, the owner thereof,  
7 files with the department, in a form as the director shall prescribe,  
8 a written consent to the inspection of the interior and contents of  
9 the structure to ascertain whether this section and the regulations  
10 adopted under this section are complied with at all times.

11 (i) The director may authorize the removal of vegetation that  
12 is not consistent with the standards of this section. The director  
13 may prescribe a procedure for the removal of that vegetation and  
14 make the expense a lien upon the building, structure, or grounds,  
15 in the same manner that is applicable to a legislative body under  
16 Section 51186 of the Government Code.

17 SEC. 3. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.

